

The State of South Carolina



Office of the Attorney General

Opinion No 87-59
pg 58T. TRAVIS MEDLOCK
ATTORNEY GENERALREMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-734-3970

June 12, 1987

Louis M. Cook, Esquire
North Myrtle Beach City Attorney
1015 Second Avenue South
North Myrtle Beach, South Carolina 29582

Dear Mr. Cook:

In a letter to his Office you have requested as city attorney for the City of North Myrtle Beach an opinion regarding whether the City can authorize transit by the handicapped to and from the beach on public highways by motorized carts and wheelchairs which do not otherwise meet the requirements for street use.

As referenced by you, pursuant to Section 43-33-25 of the Code, "... persons who are handicapped and who customarily use motorized wheelchairs or motorized carts for locomotion shall not be prohibited from using such wheelchairs or carts on the strand of the seacoast of this State." In Section 43-33-20(a) of the Code it is stated that "(t)he blind, the visually handicapped, and the otherwise physically disabled have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public facilities, and other public places."

In a prior opinion of this Office dated May 30, 1978 it was determined that golf carts would come within the definition of a motor vehicle as set forth in Section 56-5-130 of the Code. ^{1/} Another opinion dated September 10, 1980 dealt with the question

^{1/} Such provision has been amended since the opinion was written to specifically exclude mopeds. Otherwise the provision remains the same.

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of whether golf carts may be driven upon the public highways of this State. Citing the 1978 opinion noted above, further reference was made to the provisions of Section 56-5-4410 which prohibit any person from driving any vehicle on a highway in this State which does not have the equipment required by various other code provisions, such as proper brakes, lights, horns, and mirrors, etc. The opinion noted that unless a vehicle is so equipped, it should not be operated on a public highway of this State. However, the opinion concluded that if a golf cart is properly equipped with the required equipment and properly insured, it could be licensed and registered in this State.

The conclusion of such opinion would also control your question concerning the operation of motorized carts or wheelchairs by the handicapped on public highways in this State. Therefore, for any vehicle to be operated on State highways, which would include those operated by the handicapped, it must meet the various requirements imposed on all vehicles operated on highways in this State, such as being properly registered and licensed (Section 56-3-110), properly equipped (Section 56-5-4410), and properly inspected (Section 56-5-5310).

As to whether the City of North Myrtle Beach could authorize the use of such vehicles in such circumstances by the handicapped, generally, pursuant to Section 5-7-30 of the Code, municipalities are authorized to "... enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of such powers in relation to roads, streets," However, Section 56-5-30 of the Code states

(t)he provisions of this chapter shall be applicable and uniform throughout this State and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance, rule, or regulation in conflict with the provisions of this chapter unless expressly authorized herein.

Included in such chapter are Sections 56-5-4410 and 56-5-5310 dealing with vehicle equipment and inspection. Similarly, Section 56-3-110 of the Code states

(e)very motor vehicle, trailer, semitrailer, pole trailer and special mobile equipment vehicle driven, operated or moved upon a highway in this State shall be registered and licensed in accordance with the provisions of this chapter.

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Referencing the above, and consistent with the May 30, 1978 and September 10, 1980 opinions of this Office, for any vehicle, including motorized carts and wheelchairs operated by the handicapped, to be operated upon the highways of this State, it must meet the various requirements imposed on vehicles operating on State highways generally, such as being properly registered, licensed, equipped, and inspected. This Office is unable to construe the provisions of Section 43-33-25 and 43-33-20 concerning the handicapped as authorizing avoidance of State law requirements for vehicles operated on highways in this State. Moreover, municipalities are not authorized to enact provisions in conflict with State requirements pertaining to vehicles on highways.

If there are any questions, please advise.

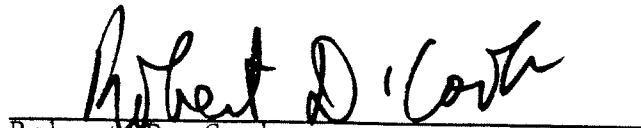
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions